THE OIL & GAS COMMISSION

The Oil & Gas Commission

The Ohio Oil & Gas Commission is established pursuant to Ohio Revised Code §1509.35. The general purpose of the Oil & Gas Commission is to provide an administrative appeal to any person claiming to be aggrieved, or adversely affected, by an order of the Chief of the Ohio Division of Oil & Gas Resources Management. The Commission is a distinct and separate entity from the Division.

Commission members are appointed by the Governor, to five-year terms. The Commission is composed of five members; no more than three members may belong to the same political party. The members represent various interest and concerns:

- One member shall, by reason of previous vocation, employment or affiliations, be classed as a representative of the public,
- One member shall be learned and experienced in oil & gas law,
- One member shall be learned and experienced in geology,
- One member shall, by reason of previous vocation, employment, or affiliations, be classed as a representative of major petroleum companies, and
- One member shall, by reason of previous training and experience, be classed as a representative of independent petroleum operators.

Three members of the Commission constitute a quorum, and no action of the Commission is valid unless it is supported by a majority of a quorum.

As a quasi-judicial board, the Oil & Gas Commission operates in much the same manner as a court of law.

The Oil & Gas Commission conducts hearings to review actions of the Division Chief. The Commission then renders decisions, which may be appealed to the Franklin County Court of Common Pleas.

If you feel that you have been aggrieved, or adversely affected, by an order of the Division Chief, you may appeal to the Commission by following the procedures set forth in the Ohio Revised Code and in the Commission's rules.

Filing a Notice of Appeal

To initiate an appeal to the Oil & Gas Commission, you must have an interest, which is, or may be, adversely affected by an order of the Division Chief. You may appeal the Chief's action by filing a notice of appeal with the Commission.

Your notice of appeal must be filed within 30 days after the date upon which the order recipient received notice by registered or certified mail of the Chief's action complained of. Your notice of appeal should state the grounds, or reasons, for your appeal. A copy of the Chief's order being appealed should be attached to your notice of appeal.

To obtain a copy of an order made by the Chief of the Division of Mineral Resources Management, the public may contact the Chief's Office at (614) 265-6922.

Your notice of appeal should be directed to the Oil & Gas Commission, at the following address:

Oil & Gas Commission
2045 Morse Road, Building H-3
Columbus, Ohio 43229
Fax: (614) 262-1306

A copy of your notice of appeal must also be sent to the Division Chief at:

Chief, Division of Oil & Gas Resources Management
2045 Morse Road, Building F-2
Columbus, Ohio 43229

Requesting Temporary Relief or a Stay of Execution

The filing of an appeal does not automatically suspend, or stay, the order appealed from. However, the person filing an appeal may request Temporary Relief, or a Stay of Execution, from a Chief's order while an appeal is pending. Temporary Relief, or a Request for Stay, must be made in writing and may be filed as part of your notice of appeal. If Temporary Relief, or a Stay, is requested, the Commission will attempt to schedule a hearing upon such request as quickly as possible. The hearing upon such a request will be an abbreviated hearing, intended to address only the issue of whether the circumstances of the case justify such relief from the order while an appeal is pending before the Commission.

The Merit Hearing

After the Oil & Gas Commission receives your notice of appeal, you will be sent notice of the date for a merit hearing. Hearings are generally held at the Ohio Department of Natural Resources' Fountain Square Complex in Columbus, Ohio.

The person or entity filing the notice of appeal is known as the "Appellant." The Division of Oil & Gas Resources Management is known as the "Appellee," and will be represented at the merit hearing by an Assistant Attorney General assigned to present the Division's evidence and arguments.

The Appellant is required to notify all holders of a royalty interest of the place, date and time of the Commission's merit hearing. If the Appellant is not the well owner, the Appellant is also required to notify the well owner of the place, date and time of the hearing. Commission Rule §1509-1-15(B) addresses these requirements.

The Appellant is not required to be represented by counsel at the merit hearing. However, the Division will be represented by an Assistant Attorney General. At the hearing, the Appellant may call witnesses, provide statements under oath or present documentary evidence in support of its position. The Appellant may also cross-examine witnesses called by the Division or any other party. All witnesses and parties should be prepared to be asked questions by the Commission members. Although the hearings tend to be informal, they are conducted in compliance with the Commission's Rules of Procedure.

Intervention into an Existing Appeal

Any person interested in an appeal, which is pending before the Commission, may request to intervene into the existing appeal. An interested person is a person having a pecuniary or proprietary interest directly affected by an appeal before the Commission. Based upon the circumstances, the Commission will determine whether, and to what extent, an interested person, or an Intervenor, may participate in an existing appeal. An interested person, or Intervenor, is not required to be represented by counsel at the merit hearing.

Requests to Continue Hearings

If a party to an appeal desires to continue, or postpone, a scheduled hearing date, a request for continuance must be filed with the Commission at least five days prior to the hearing date.

Filing Papers with the Commission

Copies of any papers filed with the Oil & Gas Commission must be sent to the other parties to an appeal. Therefore, a copy of such papers must be sent either directly to the Division Chief, or to the Assistant Attorney General representing the Chief. If there is an Intervenor in an appeal, copies of all papers must be sent to the Intervenor as well.

Decisions by the Commission

After the merit hearing has been conducted, the Commission will issue a written decision. The Commission's decision will address whether the action of the Division Chief under review was unlawful or unreasonable. The Commission may affirm, vacate or modify the Chief's action under appeal.

Appeals of Commission Decisions

Any party adversely affected by a decision made by the Oil & Gas Commission may appeal the Commission's decision to the Court of Common Pleas for Franklin County. This appeal must be filed within 30 days of receipt of the Commission's decision. The appeal must be filed at the Commission's offices, and a copy of the appeal must also be filed with the Franklin County Court of Common Pleas and the with Division. A notice of appeal to the court must designate whether an appeal is taken on questions of law or on questions of law and fact. Procedures for filing such an appeal are set forth in O.R.C. §1509.37 and in Commission Rule §1509-1-24.

Resolution of an Appeal without a Merit Hearing

After an appeal is filed, the parties may discuss with each other the facts and issues surrounding the controversy. Often, after such discussions, agreements may be reached between the parties to resolve the controversy without going forward to a merit hearing. If the parties believe that the matter under appeal could be resolved without a merit hearing, they are encouraged to explore settlement options with the Division.

The Applicable Law

Sections of the Ohio Revised Code, which relate to the Commission are:

O.R.C. §1509.35
O.R.C. §1509.36
O.R.C. §1509.37

The Oil & Gas Commission's Rules of Procedure are found in the Ohio Administrative Code at:

O.A.C. §1509-1-01 through §1509-1-26

Copies of these sections of the law will be provided, at no cost, by contacting the Commission's Executive Director at (614) 262-1269, or they may be obtained on-line at :

http://codes.ohio.gov/

Contacting the Commission

Questions regarding the procedures applied in appeals before the Oil & Gas Commission should be directed to:

Linda Osterman, Executive Director
Oil & Gas Commission
2045 Morse Road, Building H-3
Columbus, Ohio 43229
(614) 262-1269 / fax: (614) 262-1306
linda.osterman@dnr.state.oh.us